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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/027,302	12/20/2001	Stephane Bouet	4208-4066	1313
27123	7590	04/06/2006	EXAMINER	
MORGAN & FINNEGAN, L.L.P. 3 WORLD FINANCIAL CENTER NEW YORK, NY 10281-2101			CHUNG, JI YONG DAVID	
			ART UNIT	PAPER NUMBER
			2143	
DATE MAILED: 04/06/2006				

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/027,302	Applicant(s) BOUET, STEPHANE	
	Examiner Ji-Yong D. Chung	Art Unit 2143	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 1/9/2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-38 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-38 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Remarks

1. Applicant's arguments and amendments filed on January 9, 2006 have been carefully considered but they are not deemed fully persuasive. The discussion of the amendment and claims follows.

With reference to claim 1, the applicant has amended the claim to include the phrase, "wherein the image data is transmitted in one or more headers of one or more of the plurality of packets of the ongoing packet transfer."

The added limitation can be interpreted in many ways. One way to interpret the limitation is to consider the image data is inserted in a header whose protocol level is at 3 or lower. In such instance, the claim would no longer read on the prior art of record and, in most likelihood, based on additional searches the Office has conducted, the claim would not read on prior art of non-record.

However, the limitation maybe also interpreted in another way. One may view "one or more headers of one or more of the plurality of packets" to mean that "headers" refer to headers of application level documents (e.g., headers of html). The application level headers would be assumed to be in the payload portion of the packets.

The Office is under the obligation to raise all potential issues, and therefore, selects the second interpretation.

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The applicant argues that the “image data” is in addition to said content, but Dan does not show the feature. This is addressed in the remainder of the Office action.

Independent claims 11, 24, and 29 do not contain any amendments. Thus, substantively, they are rejected for the similar reasons as provided in the prior Office action, even though now the claim rejections have been tweaked to be place them under 35 U. S. C. 103.

These claims have significant issues.

The methods and apparatuses which the claims define are related to the concept of splicing some image data into on-going file/data transfer. The Office’s problem with these claims is that, even if the claims were refined to overcome the primary reference currently cited, they would not be able to overcome other prior art of *non-record*. These prior art references belong to the following technological areas:

(1) video splicing, for the purpose of presenting advertising, from the server side, into ongoing video content transfer.

(2) encoding, in which a given image is embedded by padding the pixel bytes in other data being transmitted. For instance, suppose that one has 20 images. There are ways to reserve 1 byte per pixel and encode additional data into the reserved pixels, such that after 20 pages have been transmitted, another (hidden) image has been transmitted at the same time. This concept is, of course, related to encoding, encryption and security.

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New claims 35-37 appear to rehash the limitations of claims 11, 24, and 29 and their dependent claims.

Overall, even if claims 11, 24, 29, and the new claims 35-38 were made much more precise, by the virtue of inserting limitations that elaborate what “ongoing transfer” refers to, and thus overcomes the cited rejection, they would still need to overcome *other* references from the above-mentioned two technological arts. At the moment, the Office does not see how that can come about, unless more specific limitations that describe a technique for splicing data (in the manner similar to claim 1 has, but without any ambiguity) are incorporated into those claims.

The Office acknowledges the cancellation of claims 2, 16, and 17.

Overcoming Prior Art

2. If claims 1 were amended to eliminate the second of the two possible readings described above, it would overcome the prior art of record, and most likely prior art of non-record.

Claim Rejections - 35 USC § 103

3. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.
4. **Claim 1, 3, 11, 13, 18, 19, 21, 22, and 24-33** are rejected under 35 U.S.C. 103(a) as unpatentable over Dan et al (Dan hereinafter).

In reference to **claim 1**, Dan shows *a method of transmitting objects during an ongoing packet transfer operation in which packets of content are transferred between a sending device and a receiving device, image data in addition to said content* [See Fig. 1 for Browser and Web Server. See Fig. 21 for image data in addition to said content, or see lines 20-29, column 17 for including “banner object”, which is a picture in the header]

wherein said packet transfer is comprised of a plurality [Each unit of information is given in a single “packet” or an HTML document]

the method comprises the step of transmitting the object with the packets associated with said packet transfer between the sending device and the receiving device [The server or browser transmits “the object”]

for display on a display associated with the receiving device during said ongoing packet transfer, Display is the web browser. See line 41-44, column 9. HTTP protocol allow display of downloaded objects prior to the completion of the page transfer, or in other words, during packet transfers. See lines 10-35, column 10 for the description of “device.”

wherein the image data is transmitted in one or more headers of one or more of the plurality of packets of the ongoing packet transfer. [As discussed above, the image data is carried within “header” of the packets. The header is, of course, header of the html document. The packets carry the header.]

In Fig. 21, Dan does not show that the banner is in “addition to said content.”

It would have been obvious to one of ordinary skill in the art at the time of the invention to have web page content, so that the web page header information is sent “in addition” to the web page content.

In reference to **claim 3**, Dan shows that *the objects include a picture or a plurality of pictures for transmission the receiving device*. [See lines 20-29, column 17 for including “banner object”, which is a picture].

Claims 11-13 substantively restate the limitations of claims 1 and 3, but in more general terms, and in apparatus form rather than in method form. The reasons for the rejections of claims 1 and 3 apply to claims 11 and 13.

Claim 12 substantively restates the limitations of cancelled claim 2, but in more general terms. The reasons for the rejection of claim 2 (now cancelled) apply to claim 12.

In reference to **claim 18**, Dan does not show *the headers include parameters that control the display of the image data on a display of the receiving device during the ongoing packet transfer*. However, Dan shows HTML tags and their use for creating HTML documents.

It would have been obvious to one of ordinary skill in the art at the time of the invention to insert image and its associated display parameters in the banner (in Fig. 9) using tag of HTML, so that the displayed image fits in the page that displays the image.

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In reference to **claim 19**, Dan does not show to claim 1 *wherein the image data is displayed in lieu of content during said ongoing packet transfer*. However, Dan shows HTML tags and their use for creating HTML documents.

It would have been obvious to one of ordinary skill in the art at the time of the invention to insert image and its associated display parameters in the banner (in Fig. 9) using tag of HTML, so that in lieu of text data, the image data is displayed.

Claims 21 and 24-26 substantively restate the limitations of claims 17 (prior to cancellation), 1, 16, and 17 (prior to cancellation), but in apparatus form rather than in method form, respectively. The reasons for the rejections of claims 17 (prior to cancellation), 1, 16, and 17 (prior to cancellation) apply to claims 21 and 24-26, respectively. For the ground of rejection of claim 17, see the second Office action.

Claims 22 and 27 substantively restate the limitations of claim 18, but in apparatus form rather than in method form. The reasons for the rejections of claim 18 apply to claims 22 and 27.

Claim 28 substantively restates the limitations of claim 19, but in apparatus form rather than in method form. The reasons for the rejections of claim 19 apply to claim 28.

Claim 29 substantively restates (in more broad manner) the limitations of claims 1, even though limitations are phrased differently and they are addressed to apparatus. The reasons for the rejections of claim 1 apply to claim 29.

Claims 30 and 31 substantively restate the limitations of claims 16, and 17 (now cancelled), but in apparatus form rather than in method form, respectively. The reasons for the rejections of claims 16 and 17 apply to claims 30 and 31, respectively.

Claims 32 and 33 substantively restate the limitations of claims 18 and 19, but in apparatus form rather than in method form. The reasons for the rejections of claims 18 and 19 apply to claims 32 and 33.

5. **Claim 5 and 6** are rejected under 35 U.S.C. 103(a) as being unpatentable over Dan in view of Hines et al (Hines hereinafter).

In reference to **claim 5**, Dan does not show but Hines shows embedding MPEG in HTML [See claim 3 of Hines]. Hines meets claim 5's limitations because MPEG format contains fields that are stated in claim 5's limitation. The reference document Dali: MPEG Video – C API explains MPEG format.

As Dali: MPEG Video – C API reference shows, MPEG format meets the following elements of claim 5: *fields for SeriesSize for specifying the size of the picture series* [See numElements of MpegVideoIndex, in page 4], *PictureRefreshTime for specifying the length of*

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time the picture is displayed [See picture_rate of MpegSeqHdr in page 1, which specifies the time delay between frames], *a PictureSize for specifying the size of the picture* [See width and height in MpegSeqHdr in page 1], *and the picture data* [The body of MPEG file contains video or “picture data.”].

In reference to **claim 6**, Dan does not show but Hines shows embedding MPEG in HTML [See claim 3 of Hines]. As Dali: MPEG Video – C API reference shows, MPEG format meets the following elements of claim 6: *subsequent header for a subsequent picture in the series includes a TrasferStatus field for indicating the last picture of the series* [See SEQ_END_CODE under **Start Codes** section, page 6],

6. **Claim 10** is rejected under 35 U.S.C. 103(a) as being unpatentable over Dan in view of Bell.

In reference to **claim 10**, Dan does not show but Bell shows *transmissions in accordance with the Object Exchange (OBEX) transfer protocol in a short range communication operating environment* [See lines 27-52, column 2 of Bell.].

It would have been obvious to one of ordinary skill in the art at the time of the invention to combine Dan’s features with the above feature that Bell shows, because, as stated in lines 29-33 of Bell, Bell’s invention allows one to “[edited] convey, i.e., receive, transmit, or exchange, data objects of different types such as virtual business cards, virtual calendars, virtual notes, or any other suitable data objects.”

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7. **Claims 4, 7, 14, 15, 20, 23, and 34-38** are rejected under 35 U.S.C. 103(a) as being unpatentable over Dan in view of Yu et al (Yu hereinafter).

In reference to **claim 4**, Dan does not show but Yu shows that *individual pictures are transmitted for display in succession on the receiving device to be viewed as a mini-clip*. See lines 10-25 in column 7. Images are transmitted in reduced form.

It would have been obvious to one of ordinary skill in the art at the time of the invention to combine Dan's features with the above feature that Yu shows, because, as stated in lines 42-45 of Yu, Yu's invention "[edited]provides a generic solution to two-way communication mobile devise that can effectively interact with a data network, such as the Internet, for images." The mechanism allows one to deal with the problem described in lines 56-61, column 1 of Yu.

In reference to **claim 7**, Dan does not show but Yu shows the picture in *segments is performed over multiple Application Parameters headers when the picture is too large to fit into a single header*. See Fig. 6A and from line 57, column 7 to line 32, column 8 of Yu. First, reduced images are sent when the images cannot be displayed in its full resolution. User can choose to see each subdivisions of the picture, in a specific number of iterations.

With respect to **claim 14**, Dan does not show but Yu shows that *sending device is a wireless sending device* [See item 108, Fig. 1 of Yu].

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With respect to **claim 15**, Dan does not show, but Yu shows that *the receiving device is a wireless mobile terminal having a graphics capable display* [See Fig. 2, Yu. Note that the illustrated device is capable of displaying graphics].

With respect to **claim 20**, Yu shows *the image data and the content are transmitted wirelessly*. See lines 10-25 in column 7. Images (and thus content) are transmitted in reduced form. See item 108, Fig. 1 of Yu. Data is transmitted wirelessly.

Claims 23 and 34 substantively restate the limitations of claim 20, but in apparatus form rather than in method form. The reasons for the rejections of claim 20 apply to claims 23 and 34.

Claim 35 contains rephrased versions of claims 24, 26, and 27, in method form. The reasons for the rejections of claims 24, 26, and 27 apply to claim 35.

Claim 36 contains rephrased versions of the limitations of claims 11, 24, 26, and 27, in apparatus form. The reasons for the rejections of claims 11, 24, 26, and 27 apply to claim 35.

Claim 37 substantively contains the limitations of claim 35, but in apparatus form. The reasons of the rejection of claim 35 apply to claim 37.

Claim 38 is substantively as same as claims 35-37, except that it cites:

removing the additional image data from the one or more content packets during the ongoing data transfer operation.

Yu shows that a large image is reduced in size. Thus, the original image is “removed.” (it is also replaced by the reduced image). Note that the original image may still be viewed in Yu.

8. **Claims 8 and 9** are rejected under 35 U.S.C. 103(a) as being unpatentable over Dan in view of Yu et al (Yu hereinafter) and further in view of Hines.

In reference to **claims 8 and 9**, their limitations have been discussed with respect to claims 5 and 6. The statement of obviousness with respect to the claims 5 and 6 are as same as those given during the discussion of claims 1, 3-7 and 10-15, in view of the references Dan, Hines, and Yu.

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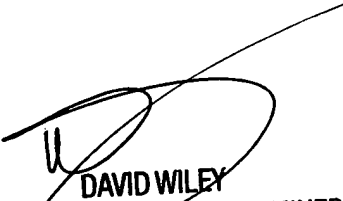
Conclusion

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ji-Yong D. Chung whose telephone number is (571) 272-7988. The examiner can normally be reached on Monday-Friday 9:30-6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Wiley can be reached on (571) 272-3923. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Ji-Yong D. Chung
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